

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

YOLANDA HERRERA,)	
Petitioner)	CIVIL ACTION NO.
)	05-10441-MLW
v.)	
)	
UNITED STATES OF AMERICA,)	
Respondent)	
)	

**Government's Second Motion To Extend Time
Within Which To File Its Response To
Petitioner's Motion Under 28 U.S.C. § 2255**

The United States of America, by Michael J. Sullivan, United States Attorney, and Michael J. Pelgro, Assistant U.S. Attorney, hereby files this second motion to extend the time within which to file its response to the petitioner's motion under 28 U.S.C. § 2255. The government requests that the Court extend the time to November 28, 2005.

In support of this motion, the government states as follows:

1. In June 2002, the petitioner pleaded guilty to an indictment, Criminal No. 01-10056-MLW, charging her with conspiracy to distribute heroin and, in September 2002, she was sentenced by this Court to 87 months' imprisonment and 5 years' supervised release. The petitioner filed a direct appeal, challenging the fine imposed by this Court, and the Judgment was affirmed by the Court of Appeals in June 2004.

2. On or about March 4, 2005, the petitioner filed a motion under 28 U.S.C. § 2255 to vacate her sentence. The

petitioner has raised a conclusory claim of ineffective assistance of her former attorney during sentencing as well as claims under the Booker and Blakely decisions. On June 22, 2005, the Court entered an Order requiring the government to file a response to the petition.

3. On August 8, 2005, the Court entered an electronic order allowing the government's first motion to extend the time within which to file a response to September 6, 2005.

4. The government needs additional time to review the transcripts of the Rule 11 and sentencing hearings (the Court conducted several days of evidentiary hearings in connection with the sentencing of the petitioner and her co-defendants) and to prepare an appropriate and complete response.

5. The undersigned government counsel has been heavily involved in other multiple-defendant narcotics investigations and cases as well as in supervisory and administrative duties within the U.S. Attorney's Office and has been unable to complete a thorough review of all of the file materials in the underlying multiple-defendant heroin wiretap case.

The government therefore respectfully requests that the Court extend the time within which the government is to file its

response to November 28, 2005.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

By: /s/ Michael J. Pelgro
Michael J. Pelgro
Assistant U.S. Attorney

DATED: September 20, 2005.

CERTIFICATE OF SERVICE

This is to certify that I have this day served upon the person listed below a copy of the foregoing document by depositing in the United States mail a copy of same in an envelope bearing sufficient postage for delivery:

Yolanda Herrera
Inmate No. 23564-038
FCI Danbury
Federal Correctional Institution
Route 37
Danbury, CT 06811

This 20th day of September 2005.

s/Michael J. Pelgro
MICHAEL J. PELGRO
ASSISTANT UNITED STATES ATTORNEY